

Joseph Gorrell, Healthcare Law Member is quoted in NorthJersey.com's article "They lost loved ones to COVID. Can their suits overcome state immunity for nursing homes?"

To read the entire article visit NorthJersey.com

Read a couple of excerpts below:

Immunity — or 'waves of lawsuits'?

Lawyers on both sides are watching to see what the courts decide about the immunity provision.

"As there have been waves of the virus, there are probably going to be waves of lawsuits," said Joseph Gorrell, a health care lawyer with the Roseland firm of Brach Eichler.

The immunity issue will be "decisive," he said. One or two cases are likely to advance to the New Jersey Supreme Court to test the limits of the immunity protections and establish precedent, he predicted.

[Lawsuits already are pending against the owners of Andover Subacute and Rehabilitation I and II](#) In Sussex County, where 17 bodies were found stacked in a makeshift morgue during the early days of the pandemic in 2020. The facility owners were dealt a major setback last fall when a federal appeals court ruled that they were not shielded from legal action by the federal Public Readiness and Emergency Preparedness (PREP) Act. Two cases, brought by the families of four residents who died in April and May 2020, were remanded to state Superior Court in Sussex County.

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Full accounting unlikely, but symbolic case

It seems unlikely that these cases will provide the full accounting advocates seek for New Jersey's high rate of nursing home deaths during the pandemic. Although it is imperfect, however, the legal system may provide one of the only avenues for families to get answers.

The consequences of a state policy requiring nursing homes to accept stable COVID-positive patients after their discharge from a hospital, so as to free up hospital beds for the acutely ill, have never been thoroughly examined — despite Gov. Phil Murphy's promise of a comprehensive look back at nursing home deaths.

And many families, prohibited from in-person visits with their loved ones during their dying days, still ache to learn exactly what happened and apportion blame.

More than a quarter of the 33,294 New Jersey residents who have died in the pandemic were residents of long-term-care facilities — 8,350 people. Another 149 were staff members at long-term care facilities.

"Very often, facts will come out in a lawsuit that are elucidating," said Gorrell, the health care lawyer. But "it's one nursing home. It doesn't tell you what happened across an industry." For that, a broader, governmental inquiry is needed.

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